

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

ZAILEY FOX,
Appellant,
v.
DEVIN DERHAM-BURK,
Appellee.

Case No. 18-CV-02240-LHK

**ORDER TO SHOW CAUSE WHY
APPEAL SHOULD NOT BE DISMISSED
FOR FAILURE TO COMPLY WITH
FEDERAL RULE OF BANKRUPTCY
PROCEDURE 8009**

On April 13, 2018, Appellant Zailey Fox filed a notice of appeal from a U.S. Bankruptcy Court order and a statement of election. ECF No. 1. Pursuant to Federal Rule of Bankruptcy Procedure 8009, within 14 days after the appellant's notice of appeal as of right becomes effective under Rule 8002, the appellant must file with the bankruptcy clerk "a designation of the items to be included in the record on appeal and a statement of the issues to be presented." Fed. R. Bankruptcy P. 8009(a)(1). Rule 8009(b) also states that Appellant has a duty to order the transcript of any relevant proceedings within the same 14-day period provided in Rule 8009(a). Bankruptcy Local Rule 8009-1(b) provides that an appeal may be dismissed for failure "to perfect the appeal in the manner prescribed by Bankruptcy Rule 8009" upon motion by the appellee or

upon recommendation by the Bankruptcy Court.

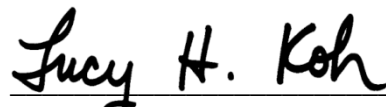
As of May 14, 2018, Appellant had not filed a designation of the record on appeal or a statement of the issues. On May 14, 2018, Appellant filed a motion for an extension of time to file Appellant's principal brief. Appellant's attorney stated in an accompanying declaration that Appellant's attorney "delegate[d] the task of obtaining a certified court transcript from the hearings held on January 6, 2018 and March 29, 2018 to Appellant. However, Appellant has been unable to obtain the transcripts to this date." ECF No. 3-1 ¶ 3. Appellant's counsel also stated that Appellant's counsel had "taken on the responsibility [of obtaining the transcripts] and [was] submitting a transcript order form from our office forthwith." *Id.* ¶ 5.

As of May 21, 2018, Appellant has not filed a designation of the record on appeal or a statement of the issues, as required by Rule 8009. Nor does the Bankruptcy Court's docket reflect that Appellant has placed a transcript order.

Accordingly, Appellant is hereby ORDERED TO SHOW CAUSE why this appeal should not be dismissed for failure to comply with Rule 8009. Appellant shall file a written response to this Order to Show Cause by Tuesday, May 29, 2018. A hearing on this Order to Show Cause is hereby set for Thursday, May 31, 2018 at 1:30 p.m. Failure to respond to this Order to Show Cause will result in dismissal of the appeal with prejudice.

IT IS SO ORDERED.

Dated: May 21, 2018



LUCY H. KOH
United States District Judge